

Table of Contents

Alabama

Poarch Band of Creek Indians	1
------------------------------------	---

Florida

Miccosukee Tribe of Indians of Florida	7
--	---

Seminole Tribe of Florida	12
---------------------------------	----

Mississippi

Mississippi Band of Choctaw Indians	18
---	----

North Carolina

Eastern Band of Cherokee Indians	22
--	----

South Carolina

Catawba Indian Nation	27
-----------------------------	----

White House Memorandum on Government-to-Government Relations with Native American Tribal Governments	31
---	----

EPA Memorandum on EPA/State/Tribal Relations	33
--	----

EPA Indian Policy: EPA Policy for the Administration of Environmental Programs on Indian Reservations	39
--	----

EPA Region 4 Policy and Practices for Environmental Protection in Indian Country	43
---	----

Region 4 Tribal/EPA Contacts	54
------------------------------------	----

POARCH BAND OF CREEK INDIANS

- Location:** Between the cities of Poarch and Atmore, Alabama
- Area:** 1670 acres with four communities in southern Alabama and the western Florida panhandle
- Population:** 2100 members, 130 on reservation
- Activities:** Main uses in addition to residential uses include agriculture, governmental & administrative services, health services, mineral extraction, and other small industries and businesses.

Today, there are nearly 2,100 members of the Poarch Band of Creek Indians of which over 1,440 live in the vicinity of Poarch, Alabama. Poarch is located eight miles northwest of Atmore, Alabama, in rural Escambia County, 57 miles northeast of Mobile.

The Poarch Band of Creek Indians' tribal Reservation consists of approximately 400 acres of which the majority is located in or around Poarch, Alabama. A 1972 national study found that among all Creek descendants in the Southeast, only this group at Poarch was still considered an Indian Community: the Poarch Band of Creek Indians is a segment of the original Creek Nation that avoided removal and has lived together for nearly 150 years. Prior to the War of 1812, the Creek Nation suffered internal conflict that resulted in a division of the tribe. This division resulted in an Upper party hostile to the United States against a group of Upper and Lower Creeks friendly to the Government. After a number of battles between the hostile Creeks, on March 27, 1814, at a place called Tohopeka or Horseshoe Bend, General Andrew Jackson's army defeated the hostile Creeks. Upon victory of the friendly Creek Party and their federal allies, Andrew Jackson arranged the Treaty of Ft. Jackson. The treaty played a major role in the outcome in the lives of the descendants of the Poarch Creek Indian members. It ceded an immense portion of both the Upper and Lower Creek lands (over 21,000,000 acres) to the United States for debts.

The tribe is governed by a nine-member elected Tribal Council. Initial efforts, after federal recognition, were focused on development of the infrastructure necessary to access and support growth and development of tribal programs. By action of the Tribal Council on January 22, 1988, Creek Indian Enterprises (CIE) was established by the Tribal Council for the purpose of managing and implementing economic development needs of the tribe.

Program Activities:

Environmental Education (Ongoing)

Continue environmental education classes and presentation of scientific field demonstration projects that provide “hands on” participation in water quality assessment of tribal surface waters and identify sources of pollution and methods of abatement.

Nonpoint Source (Ongoing)

Nonpoint source pollution control demonstration project; reclamation of a historic gravel mining area including stream restoration and the creation of wetland riparian areas. Pre-construction and post-construction water quality monitoring will be conducted.

Nonpoint Source (NPS) (FY2003)

Develop and implement a tribal Integrated Resource Management Plan (IRMP) and ordinance; nonpoint source pollution control demonstration projects; restoration of a farmed over wetland or wetlands to pre-existing conditions; planting it/them with native wetland species for the treatment of agriculture runoff; conduct pre-construction, construction, and post-construction water quality monitoring. A draft outline of the development of the Plan is to be submitted to the Bureau of Indian Affairs (BIA) in FY2002.

Water Pollution Control (Ongoing)

Continue monthly surface water quality ambient monitoring program of tribal surface waters. Collect and analyze sampling data to locate and identify sources of agriculture and urban nonpoint source pollution.

Water Pollution Control (FY2003)

Develop and set water quality standards for reservation waters; submit draft and final to the Environmental Protection Agency (EPA); adopt final standards into Tribal Code. Draft standards have already been submitted.

Safe Drinking Water Act (SDWA)

Technical Assistance associated with SDWA compliance for tribal water systems. Geographic Information Systems (GIS) mapping of all Tribal utilities water lines and integrated equipment.

Wetlands Protection (Ongoing)

Develop a Tribal Wetland Conservation Plan; ongoing wetlands identification, delineation, and GIS mapping for newly acquired Tribal land.

Implement Tribal Wetland Conservation Plan; ongoing wetlands identification, delineation, and mapping of newly acquired Tribal land.

Conduct watershed approach demonstration projects and assess and monitor the

ecological integrity of Tribal wetlands; ongoing wetlands identification, delineation, and mapping of newly acquired Tribal land.

GIS Implementation on Tribal Lands (Ongoing)

Through assistance from EPA other federal agencies such as the Bureau of Indian Affairs and Indian Health Service (IHS), GIS mapping and cataloging of tribal lands by tribal staff will be implemented in order to identify environmental risks and to manage environmental abatement programs.

Solid Waste Management Assistance Program (Ongoing)

Continue operation and management of Tribal Recycling Program and Recycling Center. Implement an educational program and public outreach to educate the tribe and local community on ways to reduce waste streams and identify less toxic alternatives to commonly used products.

Program Summary:

General Assistance (GAP)

The tribe managed six EPA grants; the acquisition of Solid Waste, Safe Drinking Water, Water Quality Improvement, Water Pollution Control and Chemical Emergency Preparedness grants will enable the Poarch Creek Environmental Department to perform more community outreach and establish a safer environment. Tribal staff are scheduled to attend workshops with Alabama Department of Environmental Management (ADEM) and United Southeastern Tribe's conference (USET).

Air

There are no facilities on tribal land that require a permit. Medical waste generated by the Tribal Health Department is collected by BFI of Alabama and incinerated by one of their facilities located in Mobile County, Alabama. Their facility is permitted by ADEM. During summer months, high levels of ozone have been documented to be a recurring problem. Surrounding county warnings are monitored to assess the ozone levels and advisories for individuals with respiratory problems.

Toxics

The tribe handles no Polychlorinated Biphenyls (PCBs). Sunbelt Chemicals, Inc. is located on tribal land and produces fertilizers and agricultural chemicals, and is permitted by ADEM.

Pollution Prevention

The tribe is operating a recycling program and is separating waste streams at the waste collection sites. Paper, cardboard, and aluminum are collected from the tribal offices and from local businesses. Expansion of the recycling program is planned to include more businesses and local schools. Recyclables are transported in bulk to a recycling center in Mobile, Alabama.

Lead

The tribe is designing and implementing a Childhood Blood-Lead Screening Program for tribal children under the age of six. The Program includes follow-up on children identified with elevated blood levels, including writing step-by-step treatment plans and environmental clean-up protocols designed to reduce exposure levels.

Water Quality

The tribe has in the past and continues to receive Section 106 Clean Water Act (CWA) Water Pollution Control grants to maintain a core surface water quality program. A previous Section 319 NPS grant established a demonstration constructed wetland on the reservation for the removal of sediments and nutrients from agricultural drainage. Other grants such as a Section 104 Storm water, Environmental Justice Pollution Prevention, and Clean Lakes grants have also been granted to the tribe for evaluation and protection of a quarry lake on reservation lands.

Drinking Water

The tribe purchases water from the Freemanville Community Water System in Escambia County, Alabama, and distributes it to tribal customers using four distribution systems: Moniac subdivision/Recreation Facility, Red Oak subdivision, Rolling Hills subdivision, and Willow Creek subdivision/Tribal Facilities system. The Freemanville system is permitted by ADEM. EPA has provided assistance to the tribe using the National Environmental Training Association (NETA) via an EPA Headquarters (HQ) grant. These systems are monitored by the tribe, as required, and analyses are performed by an outside certified laboratory. Future planning includes installation of a chlorine booster facility and water well for the tribe's own water supply system. The Poarch have also requested an engineering and organizational study to determine the direction of future drinking water activities.

Underground Injection Control (UIC)

There are no UIC wells on the reservation.

Groundwater

The Poarch Band of Creek Indians currently buy their drinking water from the City of Freemanville, AL. The source for the Freemanville system is groundwater and EPA will work with them on establishing a Well Head Protection Program (WHPP) for each of the well sites.

NPDES

There are no facilities on tribal land that require a permit. The tribe has three collection systems that convey the sewage to the City of Atmore Sewage Treatment Plant, located off reservation in Escambia County, Alabama, which is permitted by ADEM.

Underground Storage Tank (UST)

The only two USTs on tribal land were removed and replaced with above-ground storage tanks (ASTs).

Hazardous Waste

There are no hazardous waste treatment, storage or disposal facilities (TSDFs) on tribal lands, nor are there any identified hazardous waste generators.

There has never been a Subtitle D municipal solid waste landfill (MSWLF) on the Reservation. Solid waste is collected from five tribal communities and from the governmental/ administrative, social and health services, and maintenance offices by the tribe. Medical wastes from the Tribal Clinic are collected by a contractor, as are solid wastes generated at two Tribal businesses. Collected solid waste is delivered to a State-permitted, county-owned MSWLF in Escambia County, Alabama. At present, several open dumps on the Reservation are being remediated through assistance provided by the Indian Health Service (IHS). Illegal dumping is addressed in the new Tribal Environmental Codes.

The tribe plans to continue with the expansion of marketing activities and with education efforts directed at the community and specifically targeting children.

Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)

There are two inactive sites on tribal land which have been investigated under the CERCLA program: Atmore Aluminum, an aluminum smelter, and Mike Simpson Fertilizer Co., a commercial retailer of fertilizer and farm chemicals.

Problem Areas

Actions Needed

None identified for immediate action.

Contact: Robert G. Thrower
Environmental Director

Ph: (251) 368-9136
Fax: (251) 368-0834

MICCOSUKEE TRIBE OF INDIANS OF FLORIDA

Location: Miami, Florida

Area: ALLIGATOR ALLEY RESERVATION. This Federal Indian Reservation is located in western Broward County. It consists of 74,812.37 acres. Of this acreage, 40,000 acres are located in Water Conservation Area 3A, 15,000 acres are an adjacent water body, 8,000 acres are south of I-75, with the remainder north of I-75.

TAMIAMI TRAIL RESERVATION. This Federal property is located inside the northern boundary of Everglades National Park in western Dade County. It has been doubled in size to 695 acres due to the Miccosukee Reserved Area Act (PL 105-313) passed by Congress in 1998. It is now under the control of the Miccosukee Tribe and is exclusive federal jurisdiction. This is the main residential site for the Tribe.

KROME AVENUE RESERVATION. This Federal Indian Reservation is located in western Dade County at the northwest corner of the intersection of Krome Avenue and U.S. 41. It consists of 47 acres. This use is strictly commercial.

DADE CORNERS RESERVATION. This Federal Reservation is located in western Dade County at the southwest corner of the intersection of Krome Avenue and U.S. 41. It consists of 0.92 acres and is strictly commercial in nature.

Population: 500 members

Activities: Main land uses are cattle grazing, automobile truck, deli, store stop, commercial, social and recreational uses.

The Miccosukee Tribe has always been its own separate tribe with its own culture and language. In fact, the Mikasuki (sic) provided the majority of the War Chiefs for the Seminole Indian Wars. The period from the early 1920's until the middle of the Twentieth Century was a difficult time for the Miccosukee. Their ability to adapt without being absorbed was tested to its utmost. The drainage of the Everglades began, reducing the fish and game populations drastically. The Florida real estate boom in the 1920's forever changed Miami and Ft. Lauderdale from small coastal towns into a single, expanding metropolis. The Miccosukee had to abandon their camps on Pine Island and the Miami River. Tamiami Trail was built at this time, which changed the Miccosukee's lives forever. It cut off the flow of the Everglades "river of grass" to the

southwest. As a result, the areas south of the road were increasingly affected by the region's seasonal droughts. The road also opened up the interior to non-Indian hunters and fisherman. Reduced water levels and increased competition made food harder and harder for the Miccosukee to find.

The first part of Everglades National Park was deeded to the National Park Service in 1935 by the State of Florida. It was formerly the Monroe County State Seminole (Miccosukee) Reservation. In exchange for the 5,000 acre State Indian Reservation formed in 1917, the State formed the 110,000 acre Seminole Reservation in western Broward County. In 1947, Everglades National Park was formally dedicated and opened.

From an isolated community that was nearly self-sufficient, the Miccosukee Indians found themselves thrust into the rush of the twentieth century, in competition with a rapidly growing non-Indian population. They now experienced a need for more money, education, and all that goes with the modern way of life.

On December 17, 1961, the Tribal Council of the Miccosukee Indians adopted its present Constitution and Bylaws. The following month, on January 11, 1962, the tribe was officially recognized by the United States as a Tribal Nation according to the provisions of the "Indian Reorganization Act" of 1934.

Project Activities:

The tribe will develop and refine tribal capacity to assume and/or administer the following EPA programs.

- 1) Section 404 Dredge and Fill Permitting
- 2) NPDES Permitting
- 3) Nonpoint Source/Section 319
- 4) Pesticides
- 5) Solid Waste Programs

The tribe will develop tribal programs to assist EPA in the Drinking Water and Underground Storage Tank Programs. The tribe will also develop tribal capacity through the development of tribal codes/regulations.

Program Summary:**General Assistance (GAP)**

The Miccosukee Tribe will develop tribal capacity by assuming various EPA programs.

Air

There is a petroleum storage/terminal in Broward County on tribal lands. Currently, the facility is being run by Calumet Florida. This area is not a non-attainment area. The main source of air pollution comes from vehicles.

Toxics

The tribe handles no toxics or PCBs under this program.

Drinking Water

The tribe owns and operates a water system that serves the residents of the Tamiami Trail Reservation, a total of approximately 130 homes and the tribal administrative complex. The tribe also owns the water system serving the Miccosukee Service Plaza complex along I-75 on the Alligator Alley Reservation; however, this system is operated by contract. The Miccosukee Hotel and Casino Complex, on the Dade Corners Reservation is served by the Miami-Dade Water and Sewer Authority.

Underground Injection Control (UIC)

EPA and the Miccosukee are currently working in partnership to implement a Tribal UIC program that will identify all UIC wells located on the reservation, establish an inventory of these wells, and provide compliance assistance to the Tribe. The tribe has identified a contact person for this effort and the inventory has been completed. A total of nine (9) Class V injection wells have been identified and located. EPA has authorized the operation of these wells by Rule and provided information to the tribe to use for public

education and outreach.

Groundwater

The Region is currently working with the Miccosukee to implement a Well Head Protection Program for each of the sites. Work is being performed through an Interagency Agreement with the Southeastern Office of the Indian Health Service.

Water Quality (WQ)

The tribe has received "Treatment as a State" to set its own water quality standards for Federal Reservation lands and to certify federally issued permits. The tribe is greatly concerned about the pollution of the water in the Everglades through nonpoint source pollution from agricultural activities. The tribe adopted WQ Standards in December 1999. EPA approved the tribe's Water Quality Standards in FY'99 and granted authority to the tribe to issue their own 401 Water Quality Certification in FY 1998. The Wetlands Water Quality grant is complete.

National Pollution Discharge Elimination System (NPDES)

There are no permitted sources on Tribal lands. Domestic sewage is discharged via mounded and sub-surface disposal systems.

Underground Storage Tank (UST)

EPA conducted a UST inspection in September, 1999. The tribe performs release detection by testing its monitoring wells at two gas stations on a monthly basis. The tribe is developing regulations to assist EPA in administering the UST program on the Federal Reservations. EPA will work closely with the tribe to ascertain the current compliance status of all USTs located on the reservation.

Hazardous Waste

There are no hazardous waste treatment, storage or disposal facilities (TSDFs) on the Miccosukee Reservation. There are no known hazardous waste generators on the Reservation lands.

CERCLA

There are presently no active CERCLA remediation sites on Federal Reservation lands. No hazardous waste sites have been identified or reported.

Solid Waste

The Miccosukee Tribe does not have a written Solid Waste Management Plan in place at this time. There has never been a Subtitle D municipal solid waste landfill (MSWLF) on Tribal lands. Solid waste is collected twice a week from in front of homes and hauled off the Reservation by a private company under contract with the tribe. Likewise, solid waste generated at Tribal offices, buildings and businesses is collected and hauled off by a private company. The waste is taken to a State-permitted MSWLF in Dade County, Florida. There are no open dumps, nor any other significant illegal dumping

problems on the Miccosukee Reservation. The tribe has an ordinance against littering that is enforced by the Tribal Police Department. The tribe is considering the potential possibility of establishing a recycling program at its new hotel and casino complex sometime in the future.

Emergency Response

Emergency response training (a first responder course) has been provided to tribal police under an agreement with Dade County. The tribe now has an Emergency Medical Technician on staff at its Fire Department.

Problem Areas

Actions Needed

Restore and increase Section 106 funding, increase NPS funding, and the protection of state water quality standards on polluters in the Everglades.

Contact:	Steve Terry	Ph: (305) 223-8380
	Land Resources Manager	Fax: (305) 553-3644
	Ron Logan	Ph: (305) 223-8380
	Tribal Planner	Fax: (305) 223-1011

SEMINOLE TRIBE OF FLORIDA

Location: Hollywood, Florida

Area: 98,500 acres: Big Cypress Reservation 52,338, Hollywood Reservation 497, Brighton Reservation 35,805, Immokalee Reservation 600, Tampa Reservation 39; Fort Pierce Reservation, plus other non-reservation parcels: the Coconut Creek Property, and the Yeehaw Junction Property

Populations: 2,600 members

Activities: Rural areas; cattle, citrus, vegetables, cultural, residential.
Urban areas; residential, retail sales, gaming, small businesses, cultural.

The Seminole Tribe of Florida has about 2,600 members, living on five reservations across the Florida peninsula at Hollywood (formerly Dania), Big Cypress, Brighton, Immokalee, and Tampa.

The Seminole Indians of Florida were unique among the southeastern tribes in their bitter resistance to the intransigent removal policies of the federal government during the nineteenth century. There were three Seminole Wars between 1818 and 1858. The second Seminole war (1835-1842) cost the federal government over \$40 million and 1,500 casualties. Many of the Seminoles eluded capture and relocation to Oklahoma, and the U.S. Army declared an end to the war in 1858.

With the coming of the Civil war, those Seminoles who eluded capture, numbering only about one hundred, were no longer of concern to the military. Because of their isolation, the Indians in Florida played no role in the national conflict of the 1860s. Although the Seminoles were cut off from the main body of their people, they maintained their traditional culture in spite of having to adapt to meet the demands of their lifestyle. They divided into bands based upon language: two spoke Miccosukee and the other Creek. Each had its own council of elders and a chief, as the Seminole towns did prior to wars. The bands retained unity through a common religious observance of many southeastern Indians, known as the Green Corn Dance.

In the 1950s, faced with the threat of termination, the Seminoles wrote a constitution and charter and voted to formally organize as the Seminole Tribe of Florida. In 1957, the Seminole Tribe of Florida became a federally recognized tribe and reorganized itself under a constitution, according to the terms of the Indian Reorganization Act of 1934.

Project Activities:

The following represents objectives to be achieved in building tribal capacity to address the total environment of the Tribe's land, air and water. The following Environmental programs will be examined to determine what is needed for tribal capacity building in order to assume delegation:

- C Develop a Storm Water, Erosion, and Sediment Control Program
- C Best Management Practices for all Reservations
- C Redesign water quality database
- C Develop Geographical Information Systems (GIS) Database with multiple indicators of biological activity
- C 404 Dredge and Fill) Permitting Program Assistance
- C Seminole Utilities Department Code
- C Develop a management Quality Assurance/Quality Control Program for the Departments Water Quality Monitoring Program

Training for tribal members in each of the program areas will be developed to achieve:

- C Legal and managerial infrastructure and capacity
- C Technical skills and capability

The tribe will continue to design a comprehensive plan and develop an integrated core program for environmental management to achieve legal and managerial infrastructure and capacity as well as technical skills and capability for the programs listed above.

Develop a regulatory framework and amend existing Tribal Water Code in order to implement programs for which delegation is being assumed and will incorporate the Well Head Protection criteria into the Tribal Code ordinance;

Develop a Tribal Utilities Code ordinance appropriate for implementation of a Well Head Protection Program with the assistance of the Utilities Department;

Set water quality standards for surface waters on the Immokalee Reservation following and using the same protocols that were used in setting water quality standards of both the Big Cypress and Brighton Reservations;

Inventory the extent of dredge and fill activity on the reservations under existing tribal water codes permits; Modify and streamline database management of water quality and meteorological data; train tribal members for water sampling, database management, GIS and Wetland monitoring.

Program Summary:

General Assistance (GAP)

The Seminole tribe will develop wetland and water quality programs, best management practices, erosion and sediment control, redesign water quality database and examine each Department's storm water, develop Geographic Information Systems (GIS).

Air

Presently the tribe has initiated training of two tribal employees for the future implementation of an Air Quality Program for the tribe's lands. It is anticipated that monitoring will begin on the Big Cypress and Brighton Reservations even though these rural areas have few, if any pollutant emission sources. The urban reservations, Hollywood and Tampa are encompassed by other local and state entities and as such, share the same concerns for air quality as these municipalities.

General air quality concerns include high volume of traffic on Highway 441 and the turnpike in the Hollywood Reservation, and indoor air at gaming facilities located in the Immokalee, Brighton, Hollywood and Tampa Reservations.

Pollution Prevention

The tribe conducts source reduction throughout its regular water and waste water programs. The tribe also practices source reduction in solid waste programs which consists of wet garbage vehicles, batteries, tires and white goods removal. Community action includes household hazardous waste collections for the Hollywood Reservation and in the future for the more rural Reservations. There is also periodic planned community removals of cars, abandoned mobile homes, tires etc. The tribe has installed a Solid Waste Transfer Station on the Brighton Reservation and in the future is going to install one on the Big Cypress Reservation as well. These are collection points for wet garbage, paper, and other items. Periodic collections of used oil filters are made on both the Big Cypress and Brighton Reservations and all efforts are made to reduce the potential for spills to occur. Community activities include recycling and household hazardous waste collection for Hollywood, Big Cypress and Brighton at this time, with Immokalee and Tampa expected to do so in 12 months, and with Ft. Pierce participating eventually.

Toxics

There is not a current Pesticide Program on the Reservations, although the Water Resource Management Staff are trained applicators with instructions provided for by the United States Corps of Engineers and certification by the State of Florida. There is a storage facility and wash down area on the Brighton Reservation and another is being planned for the Big Cypress Reservation.

Drinking Water

The tribe operates three public water systems: Big Cypress Reservation, Brighton

Reservation, Tampa Reservation.

The Seminole Utilities Department operates the Big Cypress and Brighton community water systems, and the Tampa system is operated by contractors. Seminole Industries, a private company, provides water to some of the Hollywood residents, with the remainder getting water from the City of Hollywood. The Immokalee Water and Sewer District supplies water to the reservation at Immokalee.

Underground Injection Control (UIC)

EPA and the Seminoles are currently working in partnership to implement a tribal UIC program that will identify all UIC wells located on the reservation, establish an inventory of these wells, and provide compliance assistance to the Tribe. The tribe has identified a contact person. Inventory efforts identified that no Class V injection wells have been identified on tribal owned lands.

Groundwater

The Region is currently working with the Seminoles to implement a Well Head Protection Program for each of the sites.

NPDES

No NPDES permits are required for the present treatment systems. At Big Cypress and Brighton, treated wastewater is discharged to polishing ponds, which allow the water to percolate and evaporate. The wastewater collected in Hollywood goes to Seminole Industries as well as to the City of Hollywood. In Immokalee, the sewage is collected by the Immokalee Water and Sewer District. The Tampa sewage enters the City of Tampa collection system.

Water Quality Standards

The Water Rights Compact 1) commits the tribe to working within the South Florida Water Management Districts' rules and Florida Statutes, 2) creates water rights for the tribes, 3) provides a mechanism for conflict resolution, and 4) allows the tribe to develop on its lands without participating in the permitting process of the District. Both the Tribe and the District agree to cooperate on issues dealing with water quality and quantity.

Nonpoint Source

A Nonpoint Source Pilot Watershed Project was conducted on the Brighton and Tampa Seminole Indian Reservations. The Brighton Project consisted of determining the effectiveness of various Best Management Practices (BMPs) on a series of five cattle pastures. The Tampa project is designed to use the natural vegetation of the area for the storage of storm water and the natural attenuation of nutrients. As this facility is located in a urban area, it is highly desirable to retain as much of the natural areas and wetlands as possible. There is also a proposed research design for a project in the Big Cypress Reservation to evaluate the different vegetative types in their ability to uptake phosphorus within surface waters.

Underground Storage Tank (UST)

Presently there are no known Underground Storage Tanks located on the tribe's reservation lands. The last known tanks were located at Stonebeads in the Brighton Seminole Indian Reservation and were removed.

Hazardous Waste

There are no hazardous waste treatment, storage or disposal facilities (TSDFs) on Seminole Reservation lands. There are several hazardous waste generators, conditionally exempt small quantity generators CESQGs and small quantity generators (SQGs), on the Hollywood Reservation. At the request of the tribe, Region 4's Resource Conservation and Recovery Act (RCRA) Enforcement and Compliance Branch performed inspections of four facilities (three on the Hollywood Reservation and one just off the Reservation) that were/are leased by non-tribal members. No major violations were identified during the inspections.

Solid Waste

The Seminole Tribe has never had a Subtitle D municipal solid waste landfill (MSWLF) on Reservation lands. There were several open dumps on the Reservations that were identified by the Indian Health Service (IHS). The Seminole Utilities Department is currently responsible for solid waste handling on four of the five Seminole Reservations: Hollywood, Big Cypress, Brighton and Immokalee. A private hauling company handles solid waste at the other Reservation (Tampa), under contract with the businesses on that Reservation. The tribe plans to continue activities that successfully promote development of an integrated solid waste management program, including educational and outreach initiatives.

CERCLA

The tribe has a Cooperative Agreement from the Brownfields program to fund a tribal position for oversight and coordination of targeted Brownfields Assessments on the Reservation..

Emergency Response

Indian Health Services is currently outlining an Emergency Response Plan guideline for the various Departments within the tribe. The Seminole Utilities has completed a manual that covers all aspects of hurricane planning and response for the tribe's use. The WRMD is compiling a list of Aboveground Storage Tank (AGST) facilities needing spill prevention plans.

Problem Areas

Action Items

Grants for utilities improvement and general assistance to maintain monitoring, analysis, response and compliance to applicable Federal and Tribal environmental regulations.

Contact:	Craig D. Tepper	Ph.	(954) 966-6300 ext. 1120
	Director, Water Resource Mgt.	Fax:	(954) 967-3489

	Susan Kippenberger	Ph:	(954) 966-6300 ext. 1112
	Director, Seminole Utilities	Fax:	(954) 967-3467

MISSISSIPPI BAND OF CHOCTAW INDIANS

- Location:** East Central Mississippi, near Philadelphia
- Area:** Approximately 35,000 acres, including 8 communities, one in Tennessee.
- Population:** 8,500 members (including reservation)
- Activities:** Main land uses in addition to residential uses include agricultural, social, commercial, recreational and industrial uses.

The Choctaw people have had a presence in most of what is now Mississippi and west Alabama for over 400 years. Through a number of treaties, the Choctaw were forced to cede over 25 million acres to the United States government during the early 1800's. The members of the Mississippi Band of Choctaw Indians are the descendants of tribal members who elected to stay in Mississippi rather than relocate to the Indian Territory in 1831, and in subsequent removals lasting until 1903.

The Mississippi Band of Choctaw Indians are located in east central Mississippi on approximately 33,000 acres of reservation lands in Attala, Winston, Leake, Neshoba, Kemper, Scott, Newton, Jones, and Jackson counties and Lauderdale County in Tennessee.

There are over 8,300 members of this tribe; 6,000 of them living in the reservation communities of east central Mississippi. The other members live in urban areas throughout the country. The Choctaw in Mississippi are the descendants of the original people, who were relocated to Oklahoma in the Trail of Tears during the mid-1800s removal, following the signing of the tribe's final treaty with the United States, the Treaty of Dancing Rabbit Creek, in 1830.

In 1826, the tribe adopted its first written constitution, but the tribe's governmental structure collapsed when removal took most of the tribal members to Oklahoma shortly thereafter. In 1945, the Mississippi Band of Choctaw adopted a constitution and bylaws that provided for the establishment of a tribal government. This government is headed by an elected 16-member Tribal Council, with representatives from each of seven communities, and a Tribal Chief who is elected at-large every four years (currently Phillip Martin.)

Project Activities:

Develop tribal codes and ordinances designed to protect the environment as well as enforce environmental laws and regulations.

Build tribal capacity to administer and manage environmental regulatory programs.

Plan, develop and establish procedures, systems and policies for environmental program administration.

Act as a liaison for federal, state and local authorities regarding tribal environmental policies, activities and regulations.

Administer grants and cooperative agreements for project and program specific environmental protections implementation initiatives.

Provide technical assistance to tribal natural resource staff and other tribal departments regarding environmental management activities designed to protect tribal resources, i.e. forests, wetlands, streams, etc.

Program Summary:**General Assistance (GAP)**

The GAP grant enabled the tribe to build tribal capacity in environmental management and administration, implement and administer programs for water quality monitoring and management, air quality assessment, support recycling initiatives and conduct risk assessment of tribal properties. The Choctaw Environmental Program Office, through GAP, was able to manage and administer: Radon Pilot Project, State Lead Program, Hazardous Materials and Emergency Management Program, Section 319 Nonpoint Source Grant, Solid Waste Management Program, Air Program, Water Quality Monitoring Activities and Educational Outreach training activities.

Air

The incinerator at the hospital was the only air pollution point source. This incinerator has been dismantled and moved off site. The tribe currently has a contract with American 3CI to dispose of its hospital infectious wastes. The tribe has received Clean Air Act (CAA) Section 103 assistance to build capacity in developing and implementing CAA programs.

Toxics

The tribe handles no PCBs or other toxics under this program.

Radon Pilot Project

The tribe is currently testing tribal homes under the Radon Pilot Project. The testing of tribal buildings and homes has been completed in six of the eight Indian communities.

Radon Field Technicians explain and submit reading materials to the homeowners regarding radon and the importance of testing.

Lead Program

The tribe has developed a program to undertake training, accreditation and certification of lead-based paint professionals in order to conduct testing of tribal homes for the presence of lead-based paint. This program will also allow for educational outreach activities.

Pollution Prevention

Tribal industries are assembly-type industries that do not produce or generate hazardous materials or pollute the environment. A recycling program for white office paper, corrugated cardboard, and aluminum cans is currently ongoing. A water and wastewater quality monitoring lab has been established in order to develop water quality parameters and standards.

Drinking Water

The Tribe operates 3 community water systems (Bogue Chitto, Conehatta, and Pearl River), regulated by EPA. The Tribe and the State of Mississippi have an excellent working relationship, whereby the State performs some of the monitoring for the Tribal water systems. The other five communities are served by rural water associations, which are regulated by the Mississippi State Department of Health Water Divisions. Drinking water is 100% from groundwater sources: 8 community sources supply water to 97% of the population, while the other 3% is on private wells.

Underground Injection Control (UIC)

EPA and the Mississippi Band of Choctaw Indians is in the process of implementing a Tribal UIC program that will identify all UIC wells located on the reservation land establish an inventory of these wells together with monitoring/assessment activities.

Groundwater

EPA has provided a grant to the tribe to develop a Source Water Assessment Plan and Well Head Protection Program.

NPDES

The tribe operates a sewage treatment plant, a small package treatment plant and several oxidation lagoons.

Water Quality Standards

The tribe has received a Clean Water Act (CWA) Section 106 grant from EPA to collect and measure water quality in preparation for development of water quality standards.

Nonpoint Source

Nonpoint source issues on the Choctaw reservation include: (1) Leaking individual sewage treatment plants and septic tank systems; (2) Siltation and erosion problems at housing, industrial and commercial building construction sites; (3) harvesting,

reforestation and residue management; (4) Surface mining, i.e. topping pits.

Underground Storage Tank (UST)

The tribe has taken a pro-active approach to meeting the UST regulatory requirements. The UST located at the Choctaw Health Center and Chahta Development company have been permanently closed in place. The three UST's located at the Choctaw Housing Authority have been upgraded for corrosion protection.

Hazardous Waste

There are no hazardous waste treatment, storage or disposal facilities (TSDFs) on the Mississippi Band of Choctaw Indians' (MBCI) Reservation lands. There are several small quantity hazardous waste generators (CESQGs and an SQG) located on Tribal lands.

CERCLA

There are presently no active CERCLA National Priority List (NPL) remediation sites on reservation lands. The Tribe had a Cooperative Agreement from the Brownfields Program to conduct environmental assessments of Brownfields on Tribal Lands and to develop Tribal capacity to perform hazardous waste site investigations. The project has been completed. The Region will also provide training and technical assistance as necessary.

Emergency Response

Training of public sector employees on Hazardous Materials and Emergency Preparedness has been made available in the last four years through Department of Transportation (DOT) grants.

Problem Areas

Actions Needed

Restore/increase funding for Solid Waste Management, Clean Water Act and Safe Drinking Water Act statutes.

EASTERN BAND OF CHEROKEE INDIANS

Location: Cherokee, North Carolina

Area: 56,000 Acres

Population: 11,700 members enrolled; 9,000 on reservation

Activities: Tribal lands include commercial, and residential areas, with some agriculture; cold water trout streams are one of the primary attractions. The Qualla Boundary is bordered by National Park lands.

The Eastern Band of the Cherokee (EBCI) live on the Qualla Boundary, a land area comprised of 56,572 acres directly adjacent to the Great Smoky Mountains National Park. The more than 11,000 members of the Eastern Band (about 9,000 on the Qualla Boundary) are descendants of those Cherokee who, in the late 1830s, remained in the mountains of North Carolina rather than be forced to march along the infamous "Trail of Tears" to Oklahoma.

Historically, the Cherokee were a settled, agricultural people living in approximately 200 fairly large villages. The typical Cherokee town consisted of 30 to 60 houses and a large council house. The Cherokee, culturally, resembled the Creek and other southeastern tribes, including their celebration of the Busk, or Green Corn festival. Cherokee agriculture relied heavily on the "three sisters" (corn, beans, and squash), supplemented by hunting and the gathering of wild plants. Cherokee villages were largely independent in daily matters, with the whole tribe only coming together for ceremonies or times of war.

The Cherokee were the only Iroquoian-speaking members of the so called "Five Civilized Tribes" of the southeast United States. During the early 1800s, the Cherokee adopted their government to a written constitution. They established their own courts and schools, and achieved a standard of living that was the envy of their white neighbors. Particularly noteworthy was the invention of written language by Sequoyah (George Gist) in 1821. Utilizing an ingenious alphabet of 86 characters, almost the entire Cherokee Nation became literate within a few years. A Cherokee newspaper, the Phoenix, began publication in the native language in February, 1828. Despite all they have endured, the Cherokees' level of education and living standard ranks among the highest of all Native American tribes.

Project Activities:

Reservation Geographic Information System (GIS)

The Tribal Environmental Office (TEO) will continue to make available an accurate database system which is necessary to make informed decisions concerning the community.

Waste Stream Management

The TEO will continue to work closely with the Tribal Utilities Program in an effort to efficiently manage reservation solid waste.

Nonpoint Source Pollution

Continue demonstrations and locally funded projects

Water Infrastructure

Project support for water service to the lower half of the Big Cove Community.

Big Cove Sewer

Overall project management responsibility

Underground Storage Tanks (UST)

Complete requirements outlined in UST Memorandum of Agreement

Environmental Codes

Start work on UST codes

Enforcement

The TEO plan to address enforcement of environmental regulations on the reservation this year.

Environmental Reviews of Qualla Housing Projects

Fulfill requirements of National Environmental Policy Act

Air Quality Modeling

Identify the off-reservation air pollution sources based on meteorological and other parameters.

Program Summary:

General Assistance (GAP)

The Eastern Band of Cherokee, through EPA assistance, established the Tribal Environmental Office (TEO). The tribe has been active in developing and implementing major projects on the Reservation which have a direct and positive impact on environmental conditions. TEO office activities: Tribal Council passed a Sedimentation & Erosion Ordinance, stream restoration continues in Soco Creek, A stream

assessment was completed on the Qualla Boundary, a construction Stormwater Management and Watershed Protection Workshop was held in Cherokee in May. The tribe held its first Outreach which focused on youth; Kids in the Creek Day.

Air

Air program activities remain in place including ambient monitoring visibility photography, permit reviews, and representation of region IV on the Treatment as State (TAS) workgroup. There are no large sources of air pollution located on the Cherokee Indian Reservation. The Cherokee Indian Hospital has a small incinerator which has been given a permit by the state of North Carolina. The hospital facility is considered to be a federal facility, and because it is on Reservation lands, is permitted by EPA. The tribe has received TAS recognition to administer an air program.

Toxics

Asbestos is buried in the closed municipal solid waste landfill in a designated area that is marked.

Pollution Prevention

The reservation has a recycling program which collects aluminum cans, glass, paper and cardboard by a central recycling center. There is also a trailer which is placed in each community by a schedule that is published in the local newspaper. The recycling coordinator has an education program that is presented in the elementary school and to community clubs. This program will be expanded in both collection and education efforts.

Drinking Water

The Eastern Band of Cherokee Indians owns and operates a surface water treatment facility and distribution system.

Underground Injection Control

EPA and the Eastern Band of Cherokee are currently working in partnership to implement a tribal UIC program that will identify all UIC wells located on the reservation, establish an inventory of these wells, and provide compliance assistance to the tribe. The tribe has identified a contact person. Inventory efforts by the Region 4 staff have identified 52 Class V injection wells on tribal-owned land. The wells have been inventoried and authorized by Rule to operate.

Groundwater

The Region will be working with the Eastern Band of Cherokee Indians to implement a Well Head Protection Program for each of the sites.

Wastewater

The tribe owns and operates its own wastewater treatment facilities and collection system. The previous 1 million gallons per day (MGD) facility has been expanded to 3 MGD at a cost of over 5.1 million dollars to accommodate projected growth.

Water Quality Standards

The Water and Sewer Department, under a CWA §106 grant from EPA, monitors and analyzes stream samples and collection data to support the creation of water quality standards for the reservation. The Department also operates both certified drinking water and wastewater laboratories to conduct analysis for water treatment and wastewater treatment facilities.

Nonpoint Source

The department continues to address nonpoint source pollution with demonstration projects including fluvial geomorphic stream restoration, pervious paving applications, implementation of Project NEMO (Nonpoint Source Education for Municipal Officials), Kids In the Creek, and more. Erosion control is a primary focus for the entire department.

Underground Storage Tank (UST)

Some of this cycles funding is being used to implement UST activities on the Reservation. The activities include liaison work between EPA, North Carolina Department of Environment and Natural Resources (NCDENR) and the Tribe, remediation oversight, internal training, public outreach to owner/operators, database development and more. The tribe is working with Mr. John Mason, UST Section Chief in improving and expanding activities.

Hazardous Waste

There are no hazardous waste treatment, storage or disposal facilities (TSDFs) on Reservation lands. One known small quantity generator (SQG) of hazardous waste, as identified in the Resource Conservation and Recovery Information System (RCRIS) database, is located on the Cherokee Reservation. This facility is a printing shop that has significantly reduced its generation of hazardous waste by converting to soy-based inks and subsequently reduced the quantity of solvents used. This may actually now fit the definition of a conditionally exempt SQG (CESQG).

Solid Waste

The EBCI has a Solid Waste Management Plan that has been in place. The Tribe stopped accepting waste at its municipal solid waste landfill (MSWLF) and closed the facility. They constructed a large transfer station that is utilized as a regional facility, accepting waste from Swain and Graham Counties, NC.

CERCLA

There are presently no active CERCLA remediation sites on Reservation lands.

Problem Areas

Erosion and sedimentation problems on tribal lands.

Action Needed

Support from tribal programs and communities.

Contact: Dannie Childers, Director
Public Services

Ph: (828) 497-1802
Fax: (828) 497-2952

CATAWBA INDIAN NATION

Location:	Catawba, South Carolina
Area:	710 acres at Catawba, SC, and other commercial holdings
Population:	3000 members
Activities:	Main use is residential, plus cultural and governmental uses

Catawba means “river people” and only came into common use in the Carolinas after 1715. The original homeland of the Catawba before contact with Europeans is uncertain. Today, 1,200 descendants are living in the vicinity of Rock Hill, South Carolina. The Catawba are recognized as a tribe by the federal government and the State of South Carolina.

Before contact, the Catawba were probably two separate tribes: the Catawba proper and the Iswa. Together, they may have numbered as many as 10,000, but when the first British estimates were made in 1692, their population was about 5,000. During the next 70 years the Catawba absorbed remnants from other Siouan-speaking tribes in the region. Despite this, their population declined rapidly from the combination of disease, war, and alcohol. By 1728 they had 400 warriors and a population of about 1,400. They lost half of these to a severe smallpox epidemic in 1738. A generation later (1759-60), another smallpox epidemic killed half of the population leaving a total of 400. After this the Catawba were thoroughly demoralized, and were in fact dependent upon South Carolina for goods such as food and clothing. In return for these goods, the Catawba became subject to political control by the South Carolinians, who wanted to preserve them as a buffer against hostile forces to the north.

In 1808 South Carolina passed a law which allowed the Catawba to lease out their lands. At this time there were 110 Catawba (30 families). In 1830, half of the Catawba moved to North Carolina and lived with the Cherokee. By 1852, most of the Catawba moved away from the Cherokee, half returned to South Carolina, some to Arkansas and Indian Territory. Those who returned to South Carolina were given 630 of their original 144,000 acres.

Around 1930 the Catawba instituted a tribal council consisting of a chief, a committee chairman, two councilmen, and a secretary. Between 1935 and 1940 they succeeded in gaining admittance to a high school formerly for whites only. In 1941 South Carolina appointed a committee to negotiate with the Bureau of Indian Affairs and the Federal Farm Security Administration to give economic assistance to the Catawba.

Project Activities:

The following represents the continued/new work projects performed by the Catawba Indian Nation:

Solid Waste Management - The objective of this program is to continue with the cleanup and management of solid waste on the reservation. Through the development of our Solid Waste Management Plan we have been able to determine the quantities, types, and locations of solid waste sites on the reservation. In a combined effort with Indian Health Service (IHS) under project #97-806, we are currently working to cleanup these existing sites. Under IHS project NS-97-806, Amendment #3, additional funding has been provided to the tribe for cleanup of more dump sites.

Special Projects - The Tribal Environmental Office (TEO) will coordinate with other federal agencies and tribal departments in seeking solutions to the following problem/projects which directly impact the Catawba Indian Nations environmental and natural resources.

Open Dumping - This continues to be a problem although many of the open dumps have been cleaned up throughout the reservation. This has been accomplished with the assistance of the IHS. The TEO will continue to work with the Tribal Public Works Department in addressing this issue from both a project and public health standpoint. We foresee this problem diminishing as we continue the cleanup effort. We are also under a Solid Waste Grant from EPA in which we will address this area.

Wastewater Management - In an effort to reduce nonpoint source pollution and reduce the overall number of septic tank/drain field systems utilized on the reservation and other tribal lands, the TEO will continue to review different avenues/options for the design, construction, and funding of wastewater management projects. The utilization of such projects will allow new sewage systems to be designed and constructed in areas not currently served. The TEO will continue to coordinate with the Indian Health Service representative in seeking technical/financial assistance for tribal wastewater projects.

Water Management - In an effort to provide residents of tribal lands with quality water, the TEO, Planning and Development; and Public Works will accomplish the following: review options for the design, construction, and funding for water system projects for tribal lands; develop a community water system management plan; seek technical/financial assistance for tribal water projects with the assistance of IHS representatives.

Program Summary:

General Assistance (GAP)

The Catawba TEO focused on continuing solid waste management cleanup; water and air quality planning/testing. The TEO plan to complete sediment, erosion control, storm water and water course management planning along with a clean water management plan.

Air

No sources on tribal lands are currently under permit. None that would require permitting under the South Carolina State Implementation Plan (SIP) are believed to exist. Based upon observations and information collected during the site visit, there did not appear to be any potential major sources of air emissions located on the Reservation. However, there are several air emission sources of concern within close proximity. The tribe has received CAA Section 103 assistance to build capacity in developing and implementing CAA programs.

Toxics

The tribe handles no PCBs or other toxics under this program, with the exception of EPA approved weed killers for fence line areas.

Pollution Prevention

A solid waste and recycling program was started up under an EPA grant.

Drinking Water

One public water system (PWS) exists on tribal lands, under permit 4610002 from the South Carolina Department of Health and Environmental Control (SCDHEC). It is a community system, distributing water purchased from the city of Rock Hill to over 90% of the residents, with no additional treatment provided. Some private wells are also in use.

Underground Injection Control (UIC)

EPA and the Catawba are currently working in partnership to implement a tribal UIC program that will identify all UIC wells located on the reservation, establish an inventory of these wells, and provide compliance assistance to the tribe. The tribe has identified a contact person. An inventory was conducted and three Class V wells were identified and authorized by Rule to operate. Information was provided to the tribe for use to educate and provide outreach to tribal members.

Groundwater

Once the Catawba implement a ground water system, EPA will work with them on establishing a Well Head Protection Program for each of the sites.

NPDES

No sources exist on tribal lands. Wastewater disposal is accomplished through septic systems.

Underground Storage Tank

There are no known regulated USTs on tribal lands.

Hazardous Waste

There are no hazardous waste treatment, storage or disposal facilities (TSDFs) on Reservation lands. There are no known hazardous waste generators on Reservation lands.

Solid Waste

The Catawba Indian Nation has a Solid Waste Management Plan (SWMP). The tribe has addressed solid waste issues through public education initiatives, educational brochures and production of a video, and other activities that promote further development of an integrated solid waste management program.

CERCLA

There are no known CERCLA sites on reservation.

Emergency Response

The County would presently respond to any emergency situations. The tribe has received some money from the National Congress of American Indians (NCAI) for the purpose of preparedness training, and the Federal Highway Administration may be contributing money to assist in planning and preparation efforts. The Tribe may also be requesting money from EPA to use for Community-Right-To-Know and emergency planning.

Problem Areas**Actions Needed**

Contact: Lewis George
 Public Works Director

Ph: (803) 366-4792
Fax: (803) 366-8380



Memorandum dated April 29, 1994

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: **Government-to-Government Relations With Native American Tribal Governments**

The United States Government has a unique legal relationship with Native American tribal governments as set forth in the Constitution of the United States, treaties, statutes, and court decisions. As executive departments and agencies undertake activities affecting Native American tribal rights or trust resources, such activities should be implemented in a knowledgeable, sensitive manner respectful of tribal sovereignty. Today, as part of an historic meeting, I am outlining principles that executive departments and agencies, including every component bureau and office, are to follow in their interactions with Native American tribal governments. The purpose of these principles is to clarify our responsibility to ensure that the Federal Government operates within a government-to-government relationship with federally recognized Native American tribes. I am strongly committed to building a more effective day-to-day working relationship reflecting respect for the rights of self-government due the sovereign tribal governments.

In order to ensure that the rights of sovereign tribal governments are fully respected, executive branch activities shall be guided by the following:

- (a) The head of each executive department and agency shall be responsible for ensuring that the department or agency operates within a government-to-government relationship with federally recognized tribal governments.
- (b) Each executive department and agency shall consult, to the greatest extent practicable and to the extent permitted by law, with tribal governments prior to taking actions that affect federally recognized tribal governments. All such consultations are to be open and candid so that all interested parties may evaluate for themselves the potential impact of relevant proposals.
- (c) Each executive department and agency shall assess the impact of Federal Government plans, projects, programs, and activities on tribal trust resources and assure that tribal government rights and concerns are considered during the development of such plans, projects, programs, and activities.

(d) Each executive department and agency shall take appropriate steps to remove any procedural impediments to working directly and effectively with tribal governments on activities that affect the trust property and/or governmental rights of the tribes.

(e) Each executive department and agency shall work cooperatively with other Federal departments and agencies to enlist their interest and support in cooperative efforts, where appropriate, to accomplish the goals of this memorandum.

(f) Each executive department and agency shall apply the requirements of Executive Orders Nos. 12875 ("Enhancing the Intergovernmental Partnership") and 12866 ("Regulatory Planning and Review") to design solutions and tailor Federal programs, in appropriate circumstances, to address specific or unique needs of tribal communities.

The head of each executive department and agency shall ensure that the department or agency's bureaus and components are fully aware of this memorandum, through publication or other means, and that they are in compliance with its requirements.

This memorandum is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any right to administrative or judicial review, or any other right or benefit or trust responsibility, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

The Director of the Office of Management and Budget is authorized and directed to publish this memorandum in the Federal Register.

(Presidential Sig.)

THE WHITE HOUSE,
Washington, April 29, 1994



July 10, 1991

THE ADMINISTRATOR

MEMORANDUM

SUBJECT: EPA/State/Tribal Relations

TO: Assistant Administrators
General Counsel
Inspector General
Regional Administrators
Associate Administrators
Staff Office Directors

Earlier this year I shared with you my views concerning EPA's Indian Policy, its implementation and its future direction. I would now like to further emphasize my commitment to the Policy by endorsing the attached paper that was coordinated by Region VIII on EPA/State/Tribal Relations.

This paper was prepared to formalize the Agency's role in strengthening tribal governments' management of environmental programs on reservations. The paper notes that the differences between the interests of tribal and state governments can be very sensitive and sometimes extend well beyond the specific issues of environmental protection. It reaffirms the general approach of the Agency's Indian Policy and recommends the strengthening of tribal capacity for environmental management. I believe the Agency should continue its present policy, making every effort to support cooperation and coordination between tribal and state governments, while maintaining our commitment to environmental quality.

I encourage you to promote tribal management of environmental programs and work toward that goal.

Please distribute this document to states and tribes in your region.

/S/ William K. Reilly

Attachment

cc. Headquarters Program Office Directors
Regional Office Directors

FEDERAL, TRIBAL AND STATE ROLES IN THE PROTECTION AND REGULATION OF RESERVATION ENVIRONMENTS

I. BACKGROUND

William Reilly, in his first year as EPA Administrator, reaffirmed the 1984 EPA Indian Policy and its implicit promise to protect the environment of Indian reservations as effectively as the Agency protects the environment of the rest of the country. The EPA Indian Policy is premised on tribal self-determination, the principle that has been set forth as federal policy by Presidents Nixon, Reagan, and Bush. Self-determination is the principle recognizing the primary role of tribal governments in determining the future course of reservation affairs. Applied to the environmental arena in the EPA Indian Policy, this principle looks to tribal governments to manage programs to protect human health and the environment on Indian reservations.

II. TRIBAL, STATE AND FEDERAL EXPECTATIONS

The Agency is sensitive to the fact that tribal and state governments have serious and legitimate interests in the effective control and regulation of pollution sources on Indian reservations. EPA shares these concerns and, moreover, has a responsibility to Congress under the environmental statutes to assure that effective and enforceable environmental programs are developed to protect human health and the environment throughout the nation, including Indian reservations.

Indian tribes, for whom human welfare is tied closely to the land, see protection of the reservation environment as essential to preservation of the reservations themselves. Environmental degradation is viewed as a form of further destruction of the remaining reservation land base, and pollution prevention is viewed as an act of tribal self-preservation that cannot be entrusted to others. For these reasons, Indian tribes have insisted that tribal governments be recognized as the proper governmental entities to determine the future quality of reservation environments.

State governments, in turn, recognize that the environmental integrity of entire ecosystems cannot be regulated in isolation. Pollution in the air and water, even the transportation of hazardous materials in everyday commerce, is not restricted to political boundaries. Accordingly, state governments claim a vital interest in assuring that reservation pollution sources are effectively regulated and, in many cases, express an interest in managing reservation environmental programs themselves, at least for non-Indian sources located on the reservations. In addition, some state officials have voiced the concerns of various non-Indians who live or conduct business within reservation boundaries, many of whom believe that their environmental or business interests would be better represented by state government than by the tribal government.

Although the Agency hears these particular concerns expressed most often through tribal and state representatives, respectively, the Agency is aware that most of these concerns are shared by both tribes and states. For example, tribal governments are not alone in holding the view that future generations depend on today's leaders to manage the environment wisely. Many state officials argue the same point with the same level of conviction as tribal leaders.

Conversely, tribal governments share with states the awareness that individual components of whole ecosystems cannot be regulated without regard to management of the other parts. Tribal governments have also shown themselves to share the states' sensitivity to the concerns and interests of the entire reservation populace, whether those interests are the interests of Indians or non-Indians. In the Agency's view, tribes and states do not differ on the importance of these goals.

Where they differ at all, they differ on the means to achieve them. EPA fully shares with tribes and states their concerns for preservation of the reservation as a healthy and viable environment, for rational and coordinated management of entire ecosystems, and, thirdly, for environmental management based on adequate input both from regulated businesses and from the populace whose health the system is designed to protect. Moreover, the Agency believes that all of these interests and goals can be accommodated within the framework of federal Indian policy goals and federal Indian law.

III. EPA POLICY

The EPA Indian Policy addresses the subject of state and tribal roles within reservation boundaries as follows:

1. First, consistent with the President's policy, the Agency supports the principle of Indian self-government:

"In keeping with the principle of Indian self-government, the Agency will view Tribal Governments as the appropriate non-Federal parties for making decisions and carry out program responsibilities affecting Indian reservations, their environments, and the health and welfare of the reservation populace. Just as EPA's deliberations and activities have traditionally involved the interests and/or participation of State Governments, EPA will look directly to Tribal Governments to play this lead role for matters affecting reservation environments."

1. Second, the Agency encourages cooperation between state, tribal and local governments to resolve environmental issues of mutual concern:

"Sound environmental planning and management require the cooperation and mutual consideration of neighboring governments, whether those governments be neighboring States, Tribes or local units of government.

Accordingly, EPA will encourage early communication and cooperation among Tribes, States and local governments. This is not intended to lend Federal support to any one party to the jeopardy of the interests of the other. Rather, it recognizes that in the field of environmental regulation, problems are often shared and the principle of comity between equals often serves the best interests of both."

IV. PRINCIPLES AND PROCEDURES FOR EPA ACTION

EPA program managers will be guided by the following principles and procedures regarding tribal and state roles in the management of programs to protect reservation environments.

- The Agency will follow the principles and procedures set forth in the EPA Policy for the Administration of Environmental Programs on Indian Reservations and the accompanying Implementation Guidance, both signed on November 8, 1984.
- The Agency will, in making decisions on program authorization and other matters where jurisdiction over reservation pollution sources is critical, apply federal law as found in the U.S. Constitution, applicable treaties, statutes and federal Indian law. Consistent with the EPA Indian Policy and the interests of administrative clarity, the Agency will view Indian reservations as single administrative units for regulatory purposes. Hence, as a general rule, the Agency will authorize a tribal or state government to manage reservation programs only where that government can demonstrate adequate jurisdiction over pollution sources throughout the reservation. Where, however, a tribe cannot demonstrate jurisdiction over one or more reservation sources, the Agency will retain enforcement primacy for those sources. Until EPA formally authorizes a state or tribal program, the Agency retains full responsibility for program management. Where EPA retains such responsibility, it will carry out its duties in accordance with the principles set forth in the EPA Indian Policy.
- Under both authorized and EPA-administered programs for reservations, the Agency encourages cooperation between tribes and states, acting in the spirit of neighbors with a mutual self-interest in protecting the environmental and the health and welfare of the reservation populace. Such cooperation can take many forms, including notification, consultation, sharing of technical information, expertise and personnel, and joint tribal/state programming. While EPA will in all cases be guided by federal Indian law, EPA Indian Policy and its broad responsibility to assure effective protection of human health and the environment, the Agency believes that this framework allows flexibility for a wide variety of cooperative agreements and activities, provided that such arrangements are freely negotiated and mutually agreeable to both tribe and state. The Agency will not act in such a manner as to force such agreements.
- The Agency urges states to assist tribes in developing environmental

expertise and program capability. The Agency has assisted in funding state environmental programs for two decades, with the result that, today, state governments have a very capable and sophisticated institutional infrastructure to set and enforce environmental standards consistent with local state needs and policies. As the country now moves to develop an infrastructure of tribal institutions to achieve the same goals, state governments can play a helpful and constructive role in helping to develop and support strong and effective tribal institutions. The State of Wisconsin has worked with the Menominee Tribe to develop a joint tribal/state RCRA program that can serve as a model of mutually beneficial cooperation for other states and tribes.

- The Agency urges tribes to develop an Administrative Procedures Act (APA) or other means for public notice and comment in the tribal rule-making process. Many tribes now working with EPA to develop environmental standards and regulatory programs have already taken the initiative in establishing such techniques for obtaining community input into tribal decision-making. Such tribes have enacted APAs and held public meetings to gather input from both Indian and non-Indian residents of the reservation prior to setting tribal environmental standards for their reservations. The Agency generally requires states and tribes to provide for adequate public participation as a prerequisite for approval of state or tribal environmental programs. The Agency believes that public input into major regulatory decisions is an important part of modern regulatory governance that contributes significantly to public acceptance and therefore the effectiveness of regulatory programs. The Agency encourages all tribes to follow the example of those tribes that have already enacted an APA.
- Where tribal and State governments, managing regulatory programs for reservation and state areas, respectively, may encounter transboundary problems arising from inconsistent standards, policies, or enforcement activities, EPA encourages the tribal and state governments to resolve their differences through negotiation at the local level. EPA, in such cases, is prepared to act as a moderator for such discussions, if requested. Where a statute such as the Clean Water Act designates a conflict-resolution role for EPA in helping to resolve tribal/state differences, EPA will act in accordance with the statute. Otherwise, EPA will respond generally to such differences in the same manner that EPA responds to differences between states.

V. CONCLUSION

The Agency believes that where an ecosystem crosses political boundaries, effective regulation calls for coordination and cooperation among all governments having a regulatory role impacting the ecosystem. Many differences among tribes and states, like differences among states, are a natural outgrowth of decentralized regulatory programs; these differences are best resolved locally by tribes and states acting out of mutual concern for the environment and the health

of the affected populace. EPA actions and decisions made in carrying out its role and responsibilities will be consistent with federal law and the EPA Indian Policy.



November 8, 1984

EPA Policy for the Administration of Environmental Programs on Indian Reservations

Introduction :

The President published a Federal Indian Policy on January 24, 1983, supporting the primary role of Tribal Governments in matters affecting American Indian reservations. That policy stressed two related themes: (1) that the Federal Government will pursue the principle of Indian "self-government" and (2) that it will work directly with Tribal Governments on a "government-to-government" basis.

The Environmental Protection Agency (EPA) has previously issued general statements of policy which recognize the importance of Tribal Governments in regulatory activities that impact reservation environments. It is the purpose of this statement to consolidate and expand on existing EPA Indian Policy statements in a manner consistent with the overall Federal position in support of Tribal "self-government" and "government-to-governments" relations between federal and Tribal Governments. This statement sets forth the principles that will guide the Agency in dealing with Tribal Governments and in responding to the problems of environmental management on American Indian reservations in order to protect human health and the environment. The Policy is intended to provide guidance for EPA program managers in the conduct of the Agency's congressionally mandated responsibilities. As such, it applies to EPA only and does not articulate policy for other Agencies in the conduct of their respective responsibilities.

It is important to emphasize that the implementation of regulatory programs which will realize these principles on Indian Reservations cannot be accomplished immediately. Effective implementation will take careful and conscientious work by EPA, the Tribes and many others. In many cases, it will require changes in applicable statutory authorities and regulations. It will be necessary to proceed in a carefully phased way, to learn from successes and failures, and to gain experience. Nonetheless, by beginning work on the priority problems that exist now and continuing in the direction established under these principles, over time we can significantly enhance environmental quality on reservation lands.

Policy:

In carrying out our responsibilities on Indian reservations, the fundamental objective of the Environmental Protection Agency is to protect human health and the environment. The keynote of this effort will be to give special consideration to Tribal interests in making Agency policy, and to insure the close involvement of Tribal Governments in making decisions and managing environmental programs affecting reservation lands. To meet this objective, the Agency will pursue the following principles:

- **THE AGENCY STANDS READY TO WORK DIRECTLY WITH INDIAN TRIBAL GOVERNMENTS ON A ONE-TO ONE BASIS (THE "GOVERNMENT - TO - GOVERNMENT" RELATIONSHIP), RATHER THAN AS SUBDIVISIONS OF OTHER GOVERNMENTS.**

EPA recognizes Tribal Governments as sovereign entities with primary authority and responsibility for the reservation populace. Accordingly, EPA will work directly with Tribal Governments as the independent authority for reservation affairs, and not as political subdivisions of States or other governmental units.

- **THE AGENCY WILL RECOGNIZE TRIBAL GOVERNMENTS AS THE PRIMARY PARTIES FOR SETTING STANDARDS, MAKING ENVIRONMENTAL POLICY DECISIONS AND MANAGING PROGRAMS FOR RESERVATIONS, CONSISTENT WITH AGENCY STANDARDS AND REGULATIONS.**

In keeping with the principle of Indian self-government, the Agency will view Tribal Governments as the appropriate non-federal parties for making decisions and carrying out program responsibilities affecting Indian reservations, their environments, and the health and welfare of the reservation populace. Just as EPA's deliberations and activities have traditionally involved the interests and/or participation of State Governments, EPA will look directly to Tribal Governments to play this lead role for matters affecting reservation environments .

- **THE AGENCY WILL TAKE AFFIRMATIVE STEPS TO ENCOURAGE AND ASSIST TRIBES IN ASSUMING REGULATORY AND PROGRAM MANAGEMENT RESPONSIBILITIES FOR RESERVATION LANDS.**

The Agency will assist interested Tribal Governments in developing programs and in preparing to assume regulatory and program management responsibilities for reservation lands. Within the constraints of EPA's authority and resources, this aid will include providing grants and other assistance to Tribes, similar to what we provide State Governments. The Agency will encourage Tribes to assume delegable responsibilities, (i.e. responsibilities which the Agency has traditionally delegated to State Governments for non-reservation lands) under terms similar to those governing delegations to States.

Until Tribal Governments are willing and able to assume full responsibility for

delegable programs, the Agency will retain responsibility for managing programs for reservations (unless the State has an expressed grant of jurisdiction from Congress sufficient to support delegation to the State Government). Where EPA retains such responsibility, the Agency will encourage the Tribe to participate in policy-making and to assume appropriate lesser or partial roles in the management of reservation programs.

– THE AGENCY WILL TAKE APPROPRIATE STEPS TO REMOVE EXISTING LEGAL AND PROCEDURAL IMPEDIMENTS TO WORKING DIRECTLY AND EFFECTIVELY WITH TRIBAL GOVERNMENTS ON RESERVATION PROGRAMS.

A number of serious constraints and uncertainties in the language of our statutes and regulations have limited our ability to work directly and effectively with Tribal Governments on reservation problems. As impediments in our procedures, regulations or statutes are identified which limit our ability to work effectively with Tribes consistent with this Policy, we will seek to remove those impediments.

– THE AGENCY, IN KEEPING WITH THE FEDERAL TRUST RESPONSIBILITY, WILL ASSURE THAT TRIBAL CONCERNS AND INTERESTS ARE CONSIDERED WHENEVER EPA'S ACTIONS AND/OR DECISIONS MAY AFFECT RESERVATION ENVIRONMENTS.

EPA recognizes that a trust responsibility derives from the historical relationship between the Federal Government and Indian Tribes as expressed in certain treaties and Federal Indian Law. In keeping with that trust responsibility, the Agency will endeavor to protect the environmental interests of Indian Tribes when carrying out its responsibilities that may affect the reservations.

– THE AGENCY WILL ENCOURAGE COOPERATION BETWEEN TRIBAL, STATE AND LOCAL GOVERNMENTS TO RESOLVE ENVIRONMENTAL PROBLEMS OF MUTUAL CONCERN.

Sound environmental planning and management require the cooperation and mutual consideration of neighboring governments, whether those governments be neighboring States, Tribes, or local units of government. Accordingly, EPA will encourage early communication and cooperation among Tribes, States and local Governments. This is not intended to lend Federal support to any one party to the jeopardy of the interests of the other. Rather, it recognizes that in the field of environmental regulation, problems are often shared and the principle of comity between equals and neighbors often serves the best interests of both.

THE AGENCY WILL WORK WITH OTHER FEDERAL AGENCIES WHICH HAVE RELATED RESPONSIBILITIES ON INDIAN RESERVATION TO ENLIST THEIR INTEREST AND SUPPORT IN COOPERATIVE EFFORTS TO HELP TRIBES ASSUME ENVIRONMENTAL PROGRAM RESPONSIBILITIES FOR RESERVATIONS.

EPA will seek and promote cooperation between Federal agencies to protect human health and the environment on reservations. We will work with other agencies to clearly identify and delineate the roles, responsibilities and relationships of our respective organizations and to assist Tribes in developing and managing environmental programs for reservation lands.

– THE AGENCY WILL STRIVE TO ASSURE COMPLIANCE WITH ENVIRONMENTAL STATUTES AND REGULATIONS ON INDIAN RESERVATIONS.

In those cases where facilities owned or managed by Tribal Governments are not in compliance with federal environmental statutes, EPA will work cooperatively with Tribal leadership to develop means to achieve compliance, providing technical support and consultation as necessary to enable Tribal facilities to comply. Because of the distinct status of Indian Tribes and the complex legal issues involved, direct EPA action through the judicial or administrative process will be considered where the Agency determines, in its judgment, that: (1) a significant threat to human health or the environment exists, (2) such action would reasonably be expected to achieve effective results in a timely manner, and (3) the Federal Government cannot utilize other alternatives to correct the problem in a timely fashion.

In those cases where reservation facilities are clearly owned or managed by private parties and there is no substantial Tribal interest or control involved, the Agency will endeavor to act in cooperation with the affected Tribal Government, but will otherwise respond to noncompliance by private parties on Indian reservations as the Agency would to noncompliance by the private sector elsewhere in the country. When the Tribe has a substantial proprietary interest in, or control over, the privately owned or managed facility, EPA will respond as described in the first paragraph above.

– THE AGENCY WILL INCORPORATE THESE INDIAN POLICY GOALS INTO ITS PLANNING AND MANAGEMENT ACTIVITIES, INCLUDING ITS BUDGET, OPERATING GUIDANCE, LEGISLATIVE INITIATIVES, MANAGEMENT ACCOUNTABILITY SYSTEM AND ONGOING POLICY AND REGULATION DEVELOPMENT PROCESSES.

It is a central purpose of this effort to ensure that the principles of this Policy are effectively institutionalized by incorporating them into the Agency's ongoing and long-term planning and management processes. Agency managers will include specific programmatic actions designed to resolve problems on Indian reservations in the Agency's existing fiscal year and long-term planning and management processes.

William D. Ruckelshaus

Region 4
Policy and Practices for
Environmental Protection in Indian Country

FUNDAMENTAL PRINCIPLES

There are four foundational principles which define the EPA role in environmental activities in Indian Country, derived from Treaty and Constitutional law, Supreme Court and lower court decisions, Public Laws as passed by the Congress, and Executive Orders and Memoranda:

(1) *Trust Responsibility*. EPA will protect resources (the environment and human health) as a fiduciary for the benefit of the Tribes. This implies a higher degree of protection than is due the average citizen of the U.S.

(2) *The Government to Government Relationship*. EPA will consult with the Tribes at all phases of planning and implementation activities, and will implement a broad range of cooperative actions with Tribes.

(3) *Tribal Self-Determination*. EPA recognizes that Tribes have the inherent authority to govern themselves, and will assist in program development and delegation to the extent requested and allowed by law.

(4) *Direct Implementation*. EPA has the responsibility to oversee all programs in Indian Country within its statutory and regulatory authority where not delegated or authorized to be operated by Tribes. EPA will protect human health and the environment using a variety of program styles, including full EPA program implementation, cooperative program operations with Tribes, and delegation of programs to Tribal governments, as permitted by law and encouraged by policy.

In order to apply these principles, EPA is committed to these activities:

(1) *Consultation*. Region 4 will communicate with tribal governments before making decisions, or changing policy, on environmental matters affecting tribal governments and/or tribal natural resources (other than certain enforcement actions.)

(2) *Cooperation between Governments and Agencies*. Region 4 will encourage cooperation between tribal, federal, state and local governments to address environmental issues. Region 4 will work cooperatively with other federal agencies to protect reservation environments.

(3) *Public Participation*. Region 4 will work with tribal governments to encourage the development of public participation processes as part of authorized or delegated tribal environmental programs.

EPA PROGRAM IMPLEMENTATION

The federal government has broad jurisdiction over pollution sources throughout the United States, including Indian Country. EPA presumes that, in general, Tribes are likely to possess the authority to regulate activities which are regulated by EPA statutes and which affect resources on the reservation. States generally do not have regulatory authority in Indian Country¹. Region 4 retains responsibility for direct federal implementation of all programs in Indian Country in the absence of an authorization/delegation to a State or Tribe. States applying to administer federal environmental programs within Indian Country must adequately demonstrate their jurisdiction to do so.

A. EPA INDIAN POLICY ON TRIBES' PROGRAM INVOLVEMENT

The 1984 EPA Indian Policy states clearly that EPA recognizes tribal governments as the "... primary parties for setting standards, making environmental policy decisions and managing programs for reservations consistent with Agency standards and regulations." It goes on to state:

"The Agency will assist interested tribal governments in developing programs and in preparing to assume regulatory and program management responsibilities for reservation lands....Until tribal governments are willing and able to assume full responsibility for delegable programs, the Agency will retain responsibility for managing programs for reservations."

In accordance with the Agency's national policy, Region 4 supports tribal government assumption and management of environmental programs for Indian Country, to the maximum extent permitted by law. Until such programs are in place, Region 4 retains responsibility for direct implementation of environmental programs for Indian Country in the Region. Most of the programs for which Region 4 is responsible are regulatory programs requiring enforcement of environmental standards and rules. Accordingly, jurisdiction is an important factor in policies and decisions relating to the assumption and management of regulatory programs in Indian Country. Jurisdiction in Indian Country is a matter of federal law, based upon the U.S. Constitution, treaties, statutes and decisions of the federal courts.

EPA generally does not give "advisory" opinions on state and tribal jurisdiction. To date, EPA has given opinions on state and tribal jurisdiction only when faced with a federal decision, such as an application for "treatment in the same manner as a state," or request for program approval, that requires a prior determination of jurisdiction. In such cases, EPA has based its decision upon the relevant statutes and principles of Federal

¹ In Region 4, the relationship between South Carolina and the Catawba Indian Nation is an exception to this rule. In matters affecting the Catawba Indian Nation, please refer to the Region 4 Indian Attorney for specific jurisdiction counseling.

Indian Law, Executive Orders, treaties, and other documents. The Agency has, in appropriate cases, consulted with legal experts in the Department of the Interior and the Department of Justice, and the Agency has had the benefit of the views of States, Tribes and other interested parties as part of a public record.

B. PROGRAM IMPLEMENTATION

Region 4 is responsible for direct implementation of environmental programs for Indian Country in the Region until tribal governments are formally authorized to implement programs, consistent with (1) the criteria set forth in EPA statutes and regulations, (2) the principle, reflected in the 1984 EPA Indian Policy, that tribal governments are the appropriate non-Federal parties for making decisions and carrying out program responsibilities affecting Indian reservations, their environments, and the health and welfare of the reservation populace, and (3) the objective, reflected in the 1991 EPA/State/Tribal Concept Paper (attached) of providing for coherent and consistent environmental regulation on reservations and preventing checkerboarding. To the extent permitted, Region 4 will provide grant or contract support to Tribes to manage all or part of the Federal program.

(1) *Direct Implementation.* Region 4 will establish priorities for its direct federal implementation activities by addressing as its highest priority the most serious threats to public health and the environment in Indian Country that are not otherwise being adequately addressed substantively. This priority implements the mandate of the EPA and the principle that the primary focus in Indian Country will be to protect human health and the environment.

(2) *Budgeting and Activity Plans.* Region 4 will incorporate the expressed priorities of the Tribes into its annual budget request and activities plan preparations. The final budget request of the EPA as a whole is prepared by the Office of Management and Budget for the President.

(3) *Program Management.* Region 4 is responsible for program management in Indian Country. As it sets priorities and implements environmental protection activities, Region 4 will work with the affected tribal governments to reach agreement on program management issues.

(4) *Standards.* Region 4 will work with tribal governments in the development and adoption of environmental standards (e.g., water quality standards) for Indian Country under control of the Tribes. All standards must meet applicable federal requirements.

(5) *Grant Support.* Region 4 may provide grant support (as appropriate and to the extent permitted by applicable law) to a Tribe to develop or manage all, or part of, a federal environmental program. Region 4 may provide grant or contract support to a State to manage all or part of a federal program if the Tribe and State have reached a freely negotiated/mutually agreeable, written arrangement for the management (other than enforcement) of a federal program in Indian Country, to include funding support to

the state.

(6) *Permits*. Region 4 is responsible for issuing permits in Indian Country until a tribal permitting program expressly applying to Indian Country is formally authorized. EPA will ensure regular compliance inspections and appropriate enforcement of permits, in consultation with the appropriate tribal government and environmental staff.

(7) *Enforcement Actions*. Region 4 has primary enforcement authority and responsibility, until primacy is formally granted to a tribal or state government that has demonstrated adequate jurisdiction over Indian Country. On January 17, 2001, EPA issued "Guidance on the Enforcement Policies Outlined in the 1984 Indian Policy" (attached). The Region also has issued an enforcement directive (also attached) which delineates internal enforcement procedures. EPA retains criminal enforcement authority for cases involving Indian lands.

Region 4 will strive to ensure compliance with environmental statutes and regulations in Indian Country as set forth in the 1984 Indian Policy which states:

"In those cases where facilities owned or managed by tribal governments are not in compliance with federal environmental statutes, EPA will work cooperatively with tribal leadership to develop means to achieve compliance, providing training, technical support and consultation as necessary to enable tribal facilities to comply. Because of the distinct status of Indian Tribes and the complex legal issues involved, direct EPA action through the judicial or administrative process will be considered where the Agency determines, in its judgment, that: (1) a significant threat to human health or the environment exists, (2) such action would reasonably be expected to achieve effective results in a timely manner, and (3) the Federal Government cannot utilize other alternatives to correct the problem in a timely fashion. "

In cases where facilities in Indian Country are clearly owned or managed by private parties and there is no substantial tribal interest or control involved, the Agency will endeavor to act in cooperation with the affected tribal government, but will otherwise respond to noncompliance by private parties in Indian Country in a similar manner as the Agency would respond to noncompliance in the private sector elsewhere in the country.

(8) *Treatment as a State Determinations*. Region 4 is responsible for approving the request of a Tribe to be treated in the same manner as a state (TAS) under certain federal programs.

As these requests are received, the program staff will consult with the Regional Indian Program Coordinator (IPC) and the Region 4 Indian Program Attorney (Indian Attorney) when these requests are received to start the determination process. The TAS process is often the subject of scrutiny, and a set of procedures has been written to ensure that the process is complete and properly documented. The Indian Attorney is the Region 4

expert for this process, and will work with the program staff and the Tribe during the approval process. The Indian Attorney will also hold a permanent record of all TAS determinations.

WORKING WITH TRIBAL OFFICIALS AND STAFF

Relations with federally recognized Indian tribal governments should be characterized by open communication and consultation. At this time, operation of EPA programs in conjunction with Tribes is conducted somewhat differently from the standard operating procedures of EPA, so it is necessary to delineate protocol to reduce the chance of misunderstanding or error.

The IPC has been assigned the task of overview, analysis and integration of the Regional programs that protect human health and the environment in Indian Country. It is incumbent upon the management and staff of Region 4 to implement programs as well as foster the relationship between the EPA and the Tribes in the southeast. This policy and protocol has been developed to assist the Agency in its daily operations; the IPC will work with each tribal government to determine what, if any, additions or modifications to the following protocol needs to be made, and publicize those changes within the Region.

A. CONSULTATION WITH TRIBES

1. It is the policy and practice of EPA Region 4 to notify the six Tribes of new policies, proposed regulations, or changes in policies and practices which significantly affect those Tribes, and provide for an opportunity for Tribes to consult with the Region prior to implementing those changes. This consultation process shall be flexible and allow enough time for the Tribes to select their level of involvement and discussion with EPA. Access to pertinent, routine governmental processes is part of the government-to-government relationship between EPA and those Tribes. This process is expressly designed to give the Tribes the opportunity to participate in the design and modification of EPA activities which affect them.
2. It is the responsibility of the Assistant Regional Administrator for Policy and Management (ARA) or appropriate Division Director to notify the Tribes in Region 4 of proposed changes in policy or practice. This responsibility not only applies to written policies, but to all agency processes where public notice or Federal Register notice is involved, and to other areas where there is significant Tribal government involvement. It is also the responsibility of the Divisions to educate policy makers and managers of their responsibility as to the notification and consultation process with Tribes.
3. Notification must be provided in writing, to the appropriate Tribal Chief or Chairman and tribal environmental official, in order to allow consultation with those Tribes. A copy of that correspondence must be sent to the IPC.
4. Tribes shall be given the opportunity to respond in writing, request telephone

consultation and explanation, and/or request a meeting to provide more thorough explanations and an opportunity to discuss the issues.

B. NOTICE OF VISITS AND INSPECTIONS TO INDIAN COUNTRY

1. Regional employees scheduling trips to Indian Country within the Region will inform the IPC of the intended inspection or visit, to allow for tracking of potential non-compliance issues as well as to avoid overlapping visits by staff from multiple programs. Notice will also be provided to the respective Tribe.
2. Regional Administrator/Deputy Regional Administrator non-issue-specific visits to Indian Country will be coordinated by the IPC, including coordinating the pre-visit briefing.
3. Region 4 inspectors will notify the Tribal Chief/Chairman and the tribal environmental official (typically a director of a department who reports to the chief or chairman) of inspections in Indian Country at least seven calendar days prior to the inspection, in writing. It is to be expected that Tribal environmental staff will accompany EPA inspectors on inspections within Indian Country. Other criteria and procedures for unannounced inspections may be developed in conjunction with a Tribe, EPA programs, and the IPC. Inspectors will offer entrance and exit interviews concerning inspections to the appropriate Tribal Chair and tribal environmental official.
4. In environmental emergency situations (for example, a determination of imminent and substantial endangerment) in Indian Country, the program staff will notify the Tribal Environmental Official and the IPC of the inspection/visit by phone, and coordinate activities with the Tribe to the extent it is possible.
5. Region 4 employees will take photographs of reservation areas only for official use and with tribal permission. The Tribe may designate a tribal official to accompany the photographer.
6. Generally, state government inspectors will not accompany EPA inspectors into Indian Country. If state inspectors request to accompany EPA to a reservation site, Region 4 will inform the tribal environmental official of the state's request, consider whether the state has any jurisdictional interest in an inspection, then consult with the Tribe (to include at minimum a written communication with follow-up verbal discussion), and will defer to the Tribe's conclusion on whether state inspectors will accompany EPA to the site. In Region 4, states generally do not have environmental program authority over Indian Country. The IPC will provide specific regulatory information to the States as necessary on program authorities in conjunction with the Indian Attorney. Inspectors will refer state inspectors to the IPC and/or Indian Attorney for further discussions as necessary, including those issues where the state agency has concerns about potential cross-boundary issues.

C. WRITTEN COMMUNICATION WITH TRIBAL OFFICIALS

This section contains procedures for handling written correspondence with Tribal government officials or staff. A Tribe may request other procedures for any of these items, and the IPC will be responsible for communication of any changes in these procedures within Region 4.

1. Letters to the Regional Administrator from Tribal Chairs will be answered within ten working days of receipt and will be prepared for the Regional Administrator's signature using the controlled correspondence system. A copy of the letter from the Tribe (and control sheet where generated) will be provided to the IPC. The letters will be assigned, as appropriate, to the Assistant Regional Administrator, or Division or Office Director. The response will be routed through the IPC for concurrence.

If a response cannot be provided by the ten-day deadline, the program staff will consult with the IPC and reply in writing to the Tribal Chair and/or the Tribal Environmental Official indicating that the letter has been received and that a reply is being prepared. An explanation of the delay and an anticipated date of reply will be provided.

2. Letters from Tribal Officials that involve specific program issues and are directed to Division Directors or the ARA will be answered by program staff for signature by the appropriate ARA or Division Director, or his/her designee. A copy of the letter from the Tribe (and control sheet where generated) will be provided to the IPC.

3. EPA will send letters conveying inspection findings regarding non-tribally owned facilities in Indian Country to the tribal environmental official with a copy to the Tribal Chair/Chief, unless the Tribe has requested another practice. These letters will be routed via the IPC for concurrence. (Compliance and enforcement procedures are addressed later in this document.) Final inspection reports will be provided upon completion of the report to the tribal environmental official; however, if there are preliminary results or conclusions that identify significant environmental problems, the Tribal Chair, tribal environmental official, and IPC must be notified immediately.

4. EPA or State inspection reports on sites situated outside Indian Country that may have an impact on people or the environment in Indian Country will be forwarded by EPA to the appropriate Tribal Environmental Official. The IPC will act as conduit as necessary.

5. EPA or Tribal inspection reports on sites situated in Indian Country that indicate an impact on people or the environment outside Indian Country will be forwarded to the appropriate State Environmental Official. The IPC will act as conduit as necessary.

6. The disclosure of inspection reports to a Tribe or State will be consistent with regulation and policy on disclosure of EPA records and confidentiality of business information in 40 CFR Part 2. Region 4 will make the fullest possible disclosure consistent with the regulation and policy.

7. Grant documentation signed by the ARA or his/her designee, will be sent directly to the Tribal Chair with a copy to the tribal environmental official. Copies of all cover letters will be sent to the IPC.

8. Letters of decision involving broad policy issues, grant and program eligibility determinations, jurisdictional issues, delegations and significant enforcement actions (as defined in program-specific enforcement response policies) will be prepared for the signature of the Regional Administrator or Division Director as appropriate, and sent to the Tribal Chair. The IPC and Indian Attorney will be included in the preparation and concurrence process. A courtesy copy will be sent to the tribal environmental official.

D. TRIBAL VISITS TO THE REGIONAL OFFICE

1. The ARA and Division/Office Directors will notify the IPC and the Regional Administrator/Deputy Regional Administrator of upcoming visits by Tribal Chairs.
2. Visiting Tribal Chairs will be invited to meet with the Regional Administrator or Deputy Regional Administrator.
3. Region 4 staff will notify the IPC of tribal environmental official's visits so that additional meetings can be scheduled where necessary or requested, and to avoid the scheduling of reservation visits by other EPA staff needing to meet with those officials.

TRIBES' OPERATION OF ENVIRONMENTAL PROGRAMS

The 1984 EPA Indian Policy outlines nine principles for ensuring that the Agency carries out its responsibilities on Indian reservations. The third principle asserts that EPA “... *will take affirmative steps to encourage and assist Tribes in assuming regulatory and program management responsibilities for reservation lands.*” This principle guides EPA in its development of a tribal capacity-building policy which will assist tribal governments in developing programs and in preparing to assume regulatory and program management responsibilities in Indian Country.

EPA views tribal governments as the appropriate party for making decisions and carrying out program responsibilities affecting the health and welfare of the reservation population and environment where they can demonstrate the capability and authority to do so. In order to achieve the Agency objective of protecting the environment and human health in Indian Country, in a manner consistent with support of tribal self-government, EPA will assist Tribes in developing the technical, fiscal, and administrative infrastructure necessary to implement environmental protection programs.

EPA is cognizant of the differences between Tribes and States, and among Tribes. In assisting Tribes in building environmental capacity, EPA will be sensitive to the unique qualities of each Tribe, including varying customs, beliefs, environmental protection

experience and technical, fiscal, and administrative infrastructure.

A. ACTIVITIES TO INCREASE CAPACITY

Region 4 programs and the IPC will provide outreach, education, training, and financial and legal assistance to develop, implement, and maintain comprehensive tribal environmental programs; and will pursue funding sufficient for every Tribe to have the ability to assess problems, rank risks, develop adequate infrastructure, and develop a core program tailored to that Tribe's specific needs. These objectives will be incorporated into the Annual Strategic, Operating and Budget Plans and any Tribal/EPA agreements.

1. Region 4 will work directly with each Indian Tribe to provide guidance and assistance for building tribal capacity, to include identification of resources and measurement of progress.
2. Region 4 will provide appropriate financial and programmatic oversight for every grant based on the needs of the Indian Tribe receiving funding, consistent with statutory and regulatory requirements. As Tribes demonstrate continuous improvement in grants management and program development, oversight will be adjusted accordingly. This oversight will include providing necessary program specific grant guidance.
3. EPA will provide training and assistance to address technical, fiscal management, and administrative capacity needs, as identified in consultation with the Tribes. This assistance will be coordinated with the Indian Program Coordination Office, so that the IPC may provide process guidance to program personnel developing technical assistance or training curricula specific to tribal programs.
4. Region 4 is committed to building tribal environmental capacity by working with Tribes in the field. We will provide hands-on training in applied methods (inspection, laboratory analysis, sampling, and testing) appropriate to each reservation.
5. Region 4 will make personnel available through short-term details, Intergovernmental Personnel Act (IPA), or similar assignments, to assist Tribes in developing environmental protection programs to the extent practicable and allowable. Region 4 will also encourage tribal representatives to visit both the Atlanta, and Athens, Georgia, offices.

B. TRIBAL IMPLEMENTATION OF EPA PROGRAMS

Region 4 will authorize tribal governments to manage environmental programs in Indian Country, if permitted to do so by law and if the Tribe applies and is qualified. Tribal governments are encouraged, but not required, to assume program responsibilities. Tribal applications for program authorization will be approved if the applicant meets the criteria for program approval under the relevant EPA statutes and regulations. Although Region 4 must be assured that the applicant has met the minimum criteria for program

effectiveness set forth in regulations, the Region recognizes the need for flexibility to respond to the special circumstances and legal status of Indian Tribes. Where Region 4 has approved a tribal program, Region 4 will assist and support it in carrying out its responsibilities under the program or agreement.

As stated in the 1984 Indian Policy, where a Tribe is unwilling or unable to assume full responsibility under a program, the Agency will encourage the Tribe to participate in policy-making and to assume appropriate lesser or partial roles in the management of federally implemented programs.

Region 4 will look to the Bureau of Indian Affairs (BIA) and the Tribes for guidance concerning the boundaries of reservations and other parts of Indian Country. Relevant federal agency maps (e.g., BIA, BLM, USGS) while possibly not legally definitive, are useful for general planning purposes. Questions as to the exact location of specific sites may need to be carefully researched.

TRIBAL/STATE/EPA COOPERATIVE AGREEMENTS

EPA encourages cooperative agreements between Tribes, States and EPA where appropriate, for administering environmental programs in Indian Country, where this serves the mutual self-interest of the parties and the environment, as provided in the 1984 Indian Policy. The EPA American Indian Environmental Office issued policy guidance dated May 22, 1995 on tribal/state cooperative agreements. The policy guidance includes the following guidelines:

1. First and foremost EPA should be building tribal capacity and comprehensive tribal environmental programs so that Tribes can truly negotiate with states on an equal level to mutually determine a course of action to adequately protect common resources.
2. Agreements should be recognized by the Tribe as a reasonable option to address their environmental concerns and the Tribe should initiate the process when the agreement is being developed to address tribal need.
3. EPA should provide financial and technical support to the Tribes during the development and implementation of the agreements to help ensure that the Tribes are truly in a position to freely negotiate and fully address their environmental concerns.
4. Agreements do not replace formal promulgation of a federal program or a delegation/authorization of a tribal program. Agreements are simply one tool, among many, for program implementation. The programs to be carried out under such agreements must still meet federal minimums/standards as set forth in the Code of Federal Regulations.
5. Agreements do not abrogate the Agency's statutory and trust responsibilities for protecting tribal health and environments in a manner which does not endanger or

compromise fundamental governmental rights of the Tribe.

6. Agreements do not, independent of explicit Congressional intent or judicial finding, confer regulatory jurisdiction.

In promulgating direct, federally-implemented programs, Region 4 will accommodate cooperative agreements (to the extent permitted by applicable law) between a Tribe and a state where this serves the mutual self-interest of the parties and the environment. Region 4 participation in cooperative agreements will be governed by any national guidance that EPA may develop in the future. If, after review², Region 4 finds that these agreements are freely negotiated and mutually beneficial, Region 4 will honor these agreements, provided that:

- C The Tribe and state agree upon consistent environmental standards and regulatory requirements within Indian Country.
- C Enforcement of standards and regulatory requirements in Indian Country is the lead responsibility of the Tribe or Region 4.
- C Where a Tribe cannot demonstrate jurisdiction over one or more reservation pollution sources, the Agency will retain enforcement responsibility for those sources.

Regional Administrator

Date

² Such reviews should consider at a minimum (a) whether the Tribe has sufficient technical capability needed to negotiate effectively, (b) whether there are any inequitable factors that would impose duress on the Tribe or otherwise place it in a disadvantaged position, and (c) whether the tribal/state agreement adversely affects or compromises the interests of other, similarly-situated Tribes. If a Tribe requests assistance from Region 4 to ensure a fair bargaining position, Region 4 will try to provide such assistance.

**2002 Regional Contact List
Tribal/EPA**

Tribal Contacts	Program	Phone	Fax	Address
Eddie L. Tullis, Acting Tribal Chairman	Poarch Band of Creek Indians	251/368-9136	334/368-1026	5811 Jack Springs Rd Atmore, AL 36502
Robert Thrower Environmental Program Director	Poarch Band of Creek Indians	251/368-9136	334/368-4502	5811 Jack Springs Rd Atmore, AL 36502
Billy Cypress Tribal Chairman	Miccosukee Tribe of Indians of Florida	305/223-8380	305/553-3644	P.O. Box 440021 Miami, FL 33144
Steve Terry Land Resources Mgr.	Miccosukee Tribe of Indians of Florida	305/223-8380	305/553-3644	P.O. Box 440021 Miami, FL 33144
James Billie Tribal Chairman	Seminole Tribe of Florida	954/967-3900	954/967-3486	6300 Stirling Road Hollywood, FL 33024
Craig D. Tepper Director	Seminole Tribe of Florida	954/966-6300	954/967-3489	6300 Stirling Road Hollywood, FL 33024
Susie Kippenberger Director	Seminole Tribe of Florida	954/966-3401	954/967-3401	6300 Stirling Road Hollywood, FL 33024
Phillip Martin Tribal Chief	Mississippi Band of Choctaws	601/656-5251	601/656-7333	P.O. Box 6010 Choctaw, MS 39350
Wendell Stokes Director	Mississippi Band of Choctaws	601/650-1760	601/650-1759	P.O. Box 6366 Choctaw, MS 39350
Bernadette Hudnell Coordinator	Mississippi Band of Choctaws	601/650-7313	601/650-9402	P.O. Box 6026 Choctaw, MS 39350
Leon Jones Principle Chief	Eastern Band of Cherokee Indians	828/497-2771	828/497-2952	P.O. Box 455 Cherokee, NC 28719
Calvin Murphy Director	Eastern Band of Cherokee Indians	828/497-1850	828/497-3615	P.O. Box 985 Cherokee, NC 28719
Dannie Childers Director	Eastern Band of Cherokee Indians	828/497-1802	828/497-1846	P.O. Box 455 Cherokee, NC 28619
Gilbert Blue Chief	Catawba Indian Nation	803/366-4792	803/366-9150	P.O. Box 188 Catawba, SC 29709
Lewis B. George Director	Catawba Indian Nation	803/366-4792	803/366-8380	P.O. Box 188 Catawba, SC 29709

Environmental Accountability Division (EAD)				
Bill Anderson, Acting Director	EPA, EAD	404/562-9680	404/562-9655	61 Forsyth St. Atlanta, GA 30303
Bruce Miller Associate Director Technical Support	EPA, EAD	404/562-9679	404/562-9598	61 Forsyth St. Atlanta, GA 30303
Sherri Fields Chief, Accountability Management Branch	EPA, EAD	404/562-9684	404/562-9598	61 Forsyth St. Atlanta, GA 30303
Mark Robertson Regional Indian Program Coordinator; GAP Project Officer	EPA, EAD	404/562-9639	404/562-9487	61 Forsyth St. Atlanta, GA 30303
Joan Redleaf-Durbin Attorney, Regional Indian Lands	EPA, EAD	404/562-9544	404/562-9486	61 Forsyth St. Atlanta, GA 30303
Gloria Love EJ Grants Project Officer	EPA, EAD	404/562-9672	404/562-9487	61 Forsyth St. Atlanta, GA 30303
Donna Robinson GAP Project Officer	EPA, EAD	404/562-9632	404/562-9487	61 Forsyth St. Atlanta, GA 30303
Division Coordinators				
Contact	Program	Telephone	Fax	Address
Wayne Aronson Coordinator	Water Management Division	404/562-9444	404/562-9318	61 Forsyth St. Atlanta, GA 30303
Brenda Banks Coordinator	OPM	404/562-8420	404/562-8413	61 Forsyth St. Atlanta, GA 30303
Mickey Hartnett Coordinator	Waste Management Division	404/562-8661	404/562-8628	61 Forsyth St. Atlanta, GA 30303
Gracy Danois Coordinator	APT Division	404/562-9119	404/562-9095	61 Forsyth St. Atlanta, GA 30303
Louis Salguero	SESD	706/355-8732	706/355-8744	61 Forsyth St. Atlanta, GA 3030

Water Management Division				
Connie Alexander	Coastal Zone Management	404/562-9382	404/562-9343	61 Forsyth St. Atlanta, GA 30303
Andrew Bartlett	EPA, SDWA	404/562-9478	404/562-9439	61 Forsyth St. Atlanta, GA 30303
Betty Barton	CWA 319 Non Point Source	404/562-9381	404/562-8692	61 Forsyth St. Atlanta, GA 30303
Jackye Bonds	Wellhead Protection	404/562-9448	404/562-9439	61 Forsyth St. Atlanta, GA 30303
Alanna Conley	Wellhead Protection	404/562-9443	404/562-9439	61 Forsyth St. Atlanta, GA 30303
Fred Hunter	SRF Indian Setaside CWA/SDWA Funds	404/562-9477	404/562-9439	61 Forsyth St. Atlanta, GA 30303
Forrest Leedy	CWA 106 & 104 Grants	404/562-9313	404/562-8692	61 Forsyth St. Atlanta, GA 30303
Mallory Miller	UST	404/562-9483	404/562-9439	61 Forsyth St. Atlanta, GA 30303
Chris Thomas	Source Water Protection	404/562-9459	404/562-9439	61 Forsyth St. Atlanta, GA 30303
Floyd Wellborn	Storm Water Permitting	404/562-9296	404/562-8692	61 Forsyth St. Atlanta, GA 30303
Eve Zimmerman	Water Quality Standards	404/562-9259	404/562-9224	61 Forsyth St. Atlanta, GA 30303
Air, Pesticides and Toxics Division				
Patsy Brooks	Radon	404/562-9145	404/562-9095	61 Forsyth St. Atlanta, GA 30303
Dan Ahern	Pollution Prevention and Toxics	404/562-8381	404/562-8269	61 Forsyth St. Atlanta, GA 30303
Marion Hopkins	Radon	404/562-9144	404/562-9095	61 Forsyth St. Atlanta, GA 30303
Joel Huey	Air Program	404/562-9104	404/562-9095	61 Forsyth St. Atlanta, GA 30303
John Hund	Asbestos	404/562-8978	404/562-8972	61 Forsyth St. Atlanta, GA 30303
Christopher Plymale	Pesticides	404/562-9004	404/562-8973	61 Forsyth St. Atlanta, GA 30303
Elisa Roper	Computer Aided Mgt of Emergency Operations Training (CAMEO)	404/562-9174	404/562-9163	61 Forsyth St. Atlanta, GA 30303
Rose Ann Rudd	Lead-Based Paint	404/562-8998	404/562-8972	61 Forsyth St. Atlanta, GA 30303

Waste Management Division				
Rosalind Brown	Waste Division, EJ Initiatives	404/562-8633	404/562-8628	61 Forsyth St. Atlanta, GA 30303
Rock Callender	SARA III	404/562-9186	404/562-9163	61 Forsyth St. Atlanta, GA 30303
Bernie Duperray	Solid Waste RCRA Subtitle D	404/562-8675	404/562-8439	61 Forsyth St. Atlanta, GA 30303
Chetan Gala	NPDES Enforcement	404/562-9746	404/562-9728	61 Forsyth St. Atlanta, GA 30303
Mickey Hartnett	Waste Division - Brownsfields, AIAC	404/562-8661	404/562-8628	61 Forsyth St. Atlanta, GA 30303
Davy Simonson	Tribal Solid Waste Coordinator	404/562-8457	404/562-8439	61 Forsyth St. Atlanta, GA 30303
Office of Policy and Management				
Robert Cooper	GPRA	404/562-8281	404/562-8269	61 Forsyth St. Atlanta, GA 30303
Stephanie Lankford	Grants Specialist	404/562-8423	404/562-8413	61 Forsyth St. Atlanta, GA 30303
Gail Middlebrooks	Hazardous Waste RCRA Subtitle C	404/562-8494	404/562-8439	61 Forsyth St. Atlanta, GA 30303
Rock Taber	Geographic Information System (GIS)	404/562-8011	404/562-8053	61 Forsyth St. Atlanta, GA 3030
Science and Ecosystem Support Division				
Bill Bokey	SESD Training	706/355-8604	706/355-8744	61 Forsyth St. Atlanta, GA 3030
Tom Baugh	Tribal Science Council	404/562-8275	404/562-8269	61 Forsyth St. Atlanta, GA 3030